Budget Testimony
FY 2006
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Good afternoon, Chairman Greenwald and members of the Assembly Budget Committee. Before I begin, allow me to introduce Department staff who are with me today. Rob Tillman, Director of the Division of Banking, Doug Wheeler, Chief of Staff and Assistant Commissioner for Legislative and Regulatory Affairs and Tom Gallagher, Chief Financial Officer.

The Department of Banking and Insurance regulates the State's banking, real estate brokerage and insurance industries with the goal of promoting financial stability, efficiency, competition and compliance with the highest standards of consumer protection.

The Department continues to achieve these goals through the implementation and enforcement of statutes, regulations and policies governing the licensing and practices of companies and persons in these industries as well as by the education of consumers who shop in these market.

The magnitude of the Department's regulatory responsibilities is reflected in the size of the marketplace. The Department licenses and regulates:

- more than 236,000 licensees
- the solvency of 109 domestic insurance companies with a combined $15,086,109,094 in written premiums, and the practices at more than 1000 other insurers
- 96 state chartered banks with deposits of $71,216,000,000

It is noteworthy for this testimony to state that Department revenue generally comes from its regulated industries rather than the General Fund. Regardless, the Department recognizes its obligation for fiscal responsibility.

A recent audit of the Department's activities completed by the Office of the State Auditor within the Office of Legislative Services confirms that recognition and the Department's commitment to fiscal responsibility.

First and foremost the audit for the period July 1, 2002 to March 31, 2004 did not reveal any thing that would result in any budgetary savings. The audit raised two issues: one was changing our internal controls (ie, the cash receipts process) and the other was regarding the timeliness of deposits. In both cases, we remedied the issues to the satisfaction of the auditors.

We have a duty to the industries that fund our operations – and to the consumers who fund those industries. We must be efficient in our organization – and promoters of efficiency in the businesses we regulate. Recent enhancements to the Department's efficiency include:

- Unclassified staff has been reduced to 76, compared with 94 in January 2002

- the transition to the electronic distribution of rules and bulletins, a process that previously involved approximately 27,000 pieces of mail per year saving thousands of dollars in printing, postage and staff hours

- establishment of electronic producer licensing, an Internet-based system that has eliminated a daunting amount of paper handling, review and filing.

- enhanced enforcement activities related to anti-terrorism efforts, and increased administrative activities related to the new medical malpractice premium subsidy fund.

The resulting reduction in costs and staff time heightened the Department's ability to handle increased demands without a commensurate increase in resources

We are doing more with less.

In response to Governor Codey's directive, the Department has submitted a plan that would reduce our staff size by 1% and the Commissioner's office budget by 10%.

Going forward, we expect to achieve further efficiencies through our transition to a Market Analysis approach to insurer regulatory compliance.

This approach takes advantage of both electronic date analysis and the work of regulators in other states, allowing us to focus more accurately on companies and issues of particular importance to New Jersey.

First, I would like to discuss the Department's overall approach to consumer education.

A marketplace where banks, real estate brokers and insurers compete for customers either by lower price, better services or some other measure is beneficial to the consumer and the economy alike.

This kind of competition endures only when three conditions are met:

- business has sufficient flexibility to pursue its business model and adapt to changing market conditions;

- competitors are sufficiently and equally constrained from employing tactics that hurt consumers;

- educated consumers understand the products and services they purchase and know their rights.

The Department believes that no reform is totally successful until the consumer is educated in how to use it.

We require our regulated businesses to supply educational materials and sufficient notice of changes in service, but more importantly we have embarked on a campaign to improve financial literacy and awareness among New Jersey consumers.

It is a huge task to teach financial literacy and responsibility to all those who need such help. Clearly, it is a far bigger task than the Department alone can accomplish, which is why it sought partners in the effort.

The Department is a founding member of the New Jersey Financial Literacy and Awareness Network – NJFLAN – a project that we see becoming a national model for public-private partnerships in financial education.

The network provides materials and training for all age groups – inside schools, in businesses, through partnerships with human resources departments, at community centers and on the Internet.

And it has the ability to track the progress of individuals enrolled in some of its key programs.

The Department's Office of Public Affairs is focused on consumer outreach and education. Staff are in the field, where people live, where they socialize or go to church. The unit produces educational materials which are available in print and on the web.

This group conducted 321 educational sessions in 119 municipalities in 2004.

The Department operates two satellite offices, one in Camden and one in Newark. These offices conduct outreach and provide personal assistance to walk-ins with the same level of service as our main office in Trenton

These satellites served 9,304 consumers in Fiscal year 04.

The Department entered a partnership with NJ Citizen Action to develop and conduct “Train the Trainer” seminars. This program provides community leaders with the tools to educate their constituents about issues of financial literacy and insurance. Five sessions are planned for the first year, reaching 125 leaders.

Consumer education is absolutely central to successful markets, and to successful individuals, and the Department will continue these efforts.

I will now move on to issues with regard to the Division of Banking.

Among the most important issues the Division of Banking faced last year was the implementation of the predatory lending law.

The Department was able to work with Assemblymen Van Drew and Stanley on a bi-partisan basis in creating well-balanced legislation that was supported by both consumer groups and lenders.

We are pleased to report that we believe that the Act is fulfilling its twin goals: curbing abusive practices while also ensuring that responsible forms of credit continue to be made available to all New Jerseyans.

Consumer complaints received are down, the number of licensees is up, and all segments of the market remain robust. All are strong signs that the law is operating as intended.

As part of its implementation efforts, the Department issued three interpretative Bulletins and will soon propose regulations. Moreover, as part of the Department's commitment to evaluate the lending market, especially following the passage of the law, we are preparing a partnership with the various stakeholders to study the market and the law's continuing effectiveness.

As you may be aware, the Division of Insurance currently operates under a dedicated funding system, while the Division of Banking does not. Dedicated funding promises to enable the Division of Banking to protect consumers, and be more responsive to the industries we regulate at no taxpayer expense. In fact, the Division can continue to generate revenue for the General Fund.

Dedicated funding would place the Division of Banking in line with the large majority of other states, including Pennsylvania, Delaware, New York and Connecticut.

It would allow for more efficient internal operations. The Division’s current funding system results in a particularly uneven revenue stream, disrupting staff assignments and the implementation of priorities from year to year.

As is evident by this week's TOPOFF exercise, the threat of terrorism to New Jerseyans is real and the potential use of our financial institutions and licensees to execute that threat is real as well. To that end, the Division received a Department of Homeland Security grant providing funding for 2 employees whose duties are to collect data related to potential money laundering and terrorist funding activities, and plan and conduct a forensic review of the information.

This grant assistance, while important, falls short of equipping the Department with the additional investigators and employees needed to adequately examine and investigate its thousands of licensees for potential terror related activities. Implementing dedicated funding will allow the Department to augment the grant assistance and increase the security with which our financial institutions operate, and at no cost to the State.

The Department is grateful to Assemblymen Cryan and Malone for sponsoring this proposal, which is before the Legislature as A-3176.

Another proposal has to do with putting the enforcement powers of the Division of Banking on par with its Federal counterparts.

Thank you to Assemblymen Cohen and Bateman for sponsoring A-3981 which would increase the Division's ability to deter behavior and crimes that hurt consumers threaten the financial viability of banking institutions.

The impetus for the bill is a recommendation from the national conference of State Bank Supervisors, which sees the bill as necessary for us to maintain adequate enforcement authority.

With regard to the Division of Insurance, an area of particular complexity is medical malpractice. This market continues to suffer through a cycle of high premiums, limited capacity for new policyholders, and a less than reassuring level of financial stability.

The pace of premium increases has slowed from the dramatic levels of 2002 and 2003. But we have yet to see them reverse.

History tells us to expect a cycle of increased competition and downward pressure on rates, but the start of that cycle will be seen clearly only in retrospect.

In the meantime the Department is intent on ensuring two things. First, that rates are actuarially justified. If an increase is not justified, the Department is quick to challenge it.

Second, the Department is in the process of implementing the provisions of Medical Care Access and Responsibility and Patients First Act, designed to deliver premium subsidies to physicians. We have proposed regulations implementing the Act and are analyzing market data to enable us to fulfill our new role as set forth in the Act.

In February 2005, the Department sought comment on how the subsidies should be distributed. We are now reviewing those comments.

Our goal is to finalize the subsidy plan in the next several months and deliver the first round of subsidies by this summer.

Health insurance is another area of substantial concern and complexity, not just for us as regulators, but for you as policymakers. I know many of you have shown interest in reforming the health care market and the Department shares that interest.

Premiums are increasing at a rate far beyond the rate of increase in the income of businesses and individuals who pay for coverage. Employers and health plans alike are ever looking for ways to save money by cutting benefits and shifting costs to employees.

The main driver of health insurance premiums – the increasing cost of medical care itself – is a crisis that no one has yet been able to solve.

Almost two years ago, the Department began to look at the 30% of the health care market over which the state has regulatory authority The Department met with consumers and stakeholders in their homes, (including one hosted by Assemblyman Caraballo at Seton Hall Law School) and created three Health Insurance Working Groups comprised of various stakeholders and health care professionals.

These working groups were charged with looking at how the existing healthcare system might be improved, what a new healthcare system might look like and how to address the special problems of the uninsured. The working groups discussed and deliberated the various issues. Copies of the groups' statements of deliberation are available to any of you upon request.

Finally, I am pleased to provide you with an update on the auto insurance market, and to specifically thank [Chairman Greenwald] for his sponsorship of the auto insurance reform legislation enacted in 2003.

New Jersey embarked on auto insurance reform because decades of varied regulatory solutions to individual market challenges had combined to produce a cumbersome and dysfunctional system – a system that ultimately worked against the interests of consumers.

The goal of reform was to create a marketplace where companies would compete for drivers. And drivers would have the tools needed to make informed choices.

Three years ago, this subject would have been one we would all rather avoid, but, thanks to the leadership of the bill's prime sponsors, the reform legislation passed with the bipartisan support of more than 100 legislators. As I speak with you today, I am pleased to report that the reform legislation is working and New Jersey is on the way to achieving the goal of competitive marketplace for all our consumers.

Since the reform we have welcomed three new companies to the market: Mercury General, GEICO and Esurance. Later this year we expect to welcome Progressive as well.

We have seen the re-entry of State Farm Indemnity and the re-commitment of AIG, easing the concerns of their policyholders who insure a combined 780,000 vehicles.

We have seen rate reductions and special dividends totaling over $300 million, and reaching 56 percent of the marketplace.

We have seen more than 1,500 new agency appointments –across all areas of the State.

We are seeing new brick-and-mortar investments in the State, as new insurers put down roots and existing insurers seek to strengthen their presence in the face of new competition.

And we are seeing thousands of New Jersey's poorest drivers able, for the first time, to buy affordable coverage, reducing the ranks of the uninsured.

We are achieving the second part of the goal of reform – that is, giving drivers the tools needed to make informed choices.
One such tool is our web-based Auto Insurance Purchasing Planner, which steers consumers through the coverage choices found on an auto policy in New Jersey.

The Planner explains what each choice means, covering everything from personal injury protection to deductibles, liability and comprehensive and collision coverage.

The consumer can then print out the resulting coverage selections for use when talking with a producer or direct writer. More than 47,000 consumers have taken advantage of this tool.

And for those without web access, these same services are provided one-on-one at our satellite offices in Newark and Camden.

New Jersey's reform efforts and successes have not, however, come free of controversy or without the need for deep reflection and searching analysis by the Department.

Key to the entry of Mercury and GEICO and Esurance and ultimately other national auto insurers to New Jersey was the introduction of insurance scoring to the state.

Each company uses consumer credit history data as part of their national systems for rating risks.

In short, these companies would not be here, and NJ would not be where it is today with consumer choice and rate reduction, and a developing competitive marketplace if not for the ability of insurers to use insurance scoring.

For the Department then, the key question had been how to allow scoring in a responsible way. How do we maximize its value to consumers? And how do we allow for special circumstances?

Fortunately, New Jersey has had the advantage of tackling these issues long after they've arisen in other states.

Coming late to the game, as it were, (virtually all other states used insurance scoring before us), we have been able to learn from others and develop best practices for consumer protection.

The result, we believe, is an approach that is a model for other states.

- First, NJ requires that insurance scoring be one of multiple factors and prohibit its use as the sole factor in setting rates

- Use of Insurance scoring for Dollar-a-Day and Basic policies is prohibited;

- Insurers must make exceptions for consumers whose credit information has been influenced by extraordinary life events, like catastrophic illness or injury; death of a spouse, child or parent; temporary loss of employment; divorce; and identity theft;

- Premium increases to individual policy holders as a result of insurance scoring are capped:

- negative actions based on things such as consumer-initiated credit inquiries, insurance-related inquiries, collection accounts with medical industry codes, and multiple inquiries from home or auto lenders made within a 30-day period may not be considered.

We are committed to these kinds of consumer protections – and to consumer education about credit and insurance scoring – because for better or worse scoring has become a part of our lives.

Its use extends to employment and beyond. Not just to matters of personal finances.

We must and will, therefore, continue to monitor and regulate its use.

Our market is evolving in leaps and bounds. And that is good. Our challenge is to help consumers take full advantage of the resulting changes.

With that, I thank you. And I would be pleased to take questions from the Committee.